

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CORNELL EUGENE WILSON, JR.,  
Petitioner,  
v.  
WARDEN, FCI-HERLONG,  
Respondent.

No. 2:21-cv-0793 DJC KJN P

ORDER

Petitioner, a federal prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 31, 2023, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party filed objections to the findings and recommendations.

Although it appears from the file that petitioner's copy of the findings and recommendations was returned, petitioner was properly served. It is petitioner's responsibility to keep the Court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

1       The Court presumes that any findings of fact are correct. See *Orand v. United*  
2 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law  
3 are reviewed de novo. See *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454  
4 (9th Cir. 1983). The Court has reviewed the file and finds the findings and  
5 recommendations to be supported by the record and by the Magistrate Judge's  
6 analysis.

7       Accordingly, IT IS HEREBY ORDERED that:

- 8       1. The March 31, 2023 findings and recommendations are hereby ADOPTED in  
9           full;
- 10      2. Respondent's motion to dismiss (ECF No. 34) is GRANTED;
- 11      3. Petitioner's motion to amend (ECF No. 28) is DENIED;
- 12      4. Petitioner's request to construe his proposed second amended petition as an  
13           application to file a successive Section 2255 motion and transfer the case to the  
14           United States Court of Appeals for the Ninth Circuit (ECF No. 36) is DENIED;
- 15      5. The Clerk of Court is directed to close this case; and
- 16      6. Petitioner's application for a writ of habeas corpus under 28 U.S.C. § 2241 is  
17           dismissed, without prejudice, for lack of jurisdiction.<sup>1</sup>

18

19

20       IT IS SO ORDERED.

21       Dated: May 31, 2023

22

23

24

25

26

27

28

  
Hon. Daniel J. Calabretta  
UNITED STATES DISTRICT JUDGE

/wils0793.803

<sup>1</sup> A certificate of appealability is not required for an appeal from the denial of a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. See 28 U.S.C. § 2253; *Harrison v. Ollison*, 519 F.3d 952 (9th Cir. 2008).